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SUBJECT: TURKEY'S EU MEMBERSHIP REQUIRES ADEQUATE
PROTECTION FOR LABOR UNION RIGHTS AND A LEGAL DEFINITION OF
BURDEN OF PROOF

Classified By: (U) POLITICAL COUNSELOR JOHN KUNSTADTER,
E.O.12958, REASONS 1.4 (B) AND (D).

1. (C) Summary. European Commission social policy sector manager in Ankara Zeynep Aydemir told us EU membership will require Turkey to guarantee full rights for trade unions and to establish a clear legal definition regarding the burden of proof in legal disputes. Aydemir attaches major significance to making all aspects of Turkish labor law conform with EU labor law, securing occupational safety and health protection for workers and reforming the civil service. End summary.

Union Rights and Burden of Proof

2. (C) Aydemir told us January 7 that Turkey could face major obstacles to EU accession if it does not draft legislation to assure that Turkish trade unions are able to exercise the full range of rights guaranteed by various ILO Conventions. Turkey has ratified most conventions, except notably the 1981 Convention guaranteeing collective bargaining. At the same time, Turkey will have to establish a clear legal definition regarding the burden of proof in disputes. Burden of proof issues are closely intertwined with protecting women's rights, as well as affecting employee-employer disputes in harassment and discrimination cases. Aydemir asserted that if Turkey does not address these two labor-related issues, it might be enough to derail Turkish accession.

Other Issues

3. (C) Aydemir criticized various aspects of the most recent Turkish labor law adopted in June 2003 for not conforming to EU standards. She noted 1) Turkey does not grant parental leave time to fathers, a common practice in the EU; 2) men and women are not treated equally; 3) civil service reform is still being discussed, but is no closer to resolution than it was two years ago when a forum to discuss reform was first held; and 4) occupational safety and health protections are consistent with worldwide standards in large multinational industries but do not apply to workers in small (less than ten employees) and medium-sized companies. Despite these deficiencies, Aydemir believes that Turkey's labor sector is far more advanced in comparison with conditions in the former Communist countries which have already received EU admission.

EU Standards

4. (C) All EU member countries mandate equal treatment under law for men and women, assuring equal pay for both men and women, and guaranteeing parental leave for mothers and fathers. By comparison, Turkey does not institutionalize equal treatment or equal pay for men and women and only guarantees maternity leave. However, Aydemir considered these "soft issues" that would not be expected to hinder Turkey's accession. Aydemir is concerned that Turkey's large informal economy, which she estimates employs 50 percent of the work force, could be adversely affected by these required changes, making it politically difficult to bring Turkish labor policies into compliance with the EU's. Currently EU countries welcome Turkish workers as a source of cheap labor, but this situation could change once the labor force is assimilated into European society and is able to command higher European wages.

5. (C) Ibrahim Akcayoglu, World Bank Operations Officer in the Human Development Sector Unit concurs with Aydemir, asserting there is a wide gap between stated policies and workplace practice in Turkey. Aydemir averred correcting actual violations could be difficult for Turkey because the country only has 700 labor inspectors when it should have at least double that number. In discussing the constraints imposed by having an inadequate number of labor inspectors to monitor labor conditions in Turkey, Aydemir compared Turkey

with Germany, which has 700 inspectors for one province. She added that employers perpetuate labor problems through a general lack of awareness of their responsibilities toward workers as well as a reluctance to spend money, even on legally mandated social security programs, to fund retirement and health insurance. Small and medium-sized firms in the construction industry are considered to be among the major offenders in ignoring employee rights. Agriculture, which accounts for an estimated 40 percent (estimates vary between 33 and 40 percent of the Turkish economy) is not required to provide equal pay or social security benefits for its workers, perhaps half of whom are women. Unfavorable work environments also create unhealthy conditions which contribute to child labor abuses, a problem that seems best overcome by training entire families about the negative aspects of working children.

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